

United States  
Circuit Court of Appeals

For the Ninth Circuit.

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EDWARD WHITE, as Commissioner of Immigration  
for the Port of San Francisco,  
Appellant,

vs.

CHAN WY SHEUNG,

---

Transcript of Record.

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Upon Appeal from the Southern Division of the  
United States District Court for the  
Northern District of California,  
First Division.

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FILED  
AUG 4 - 1920  
F. D. MONCKTON,  
CLERK.



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Circuit Court of Appeals

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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## **Names and Addresses of Attorneys of Record.**

For Petition and Appellee:

JOSEPH P. FALLON, Esq., San Francisco,  
Cal.

For Respondent and Appellant:

UNITED STATES ATTORNEY, San Fran-  
cisco, Cal.

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In the Southern Division of the United States Dis-  
trict Court for the Northern District of Califor-  
nia, First Division.

No. 16,672.

In the Matter of 'CHAN' WY SHEUNG, on Habeas  
Corpus.

### **Praeceptum for Transcript of Record.**

To the Clerk of Said Court:

Sir: Please make copies of the following papers  
to be used in preparing transcript on appeal:

1. Petition for Writ of Habeas Corpus.
2. Order to Show Cause.
3. Demurrer to Petition.
4. Order Overruling Demurrer and Directing that  
Writ of Habeas Corpus Issue Returnable No-  
vember 22, 1919.
5. Writ of Habeas Corpus and Marshal's Return  
of Service.
6. Return to Writ of Habeas Corpus.
7. Order Discharging Petitioner, dated Nov. 22,  
1919.
8. Notice of Appeal.

9. Petition for Appeal.
10. Assignment of Errors.
11. Order Allowing Appeal.
12. Citation on Appeal.
13. Stipulation of Attorneys and Order of the Court that Respondent's Exhibits "A," "B" and "C," being the record of the Bureau of Immigration, be transferred to the United States Circuit Court of Appeals for the Ninth Circuit, to be considered in their original form, and without being transcribed or copied.

ANNETTE ABBOTT ADAMS,

United States Attorney.

BEN F. GEIS,

Asst. United States Attorney.

[Endorsed]: Filed at 11 o'clock and 45 Min. A. M. Jun. 9, 1920. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [1\*]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG, on Habeas Corpus.

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\*Page-number appearing at foot of page of original certified Transcript of Record.



**Petition for a Writ of Habeas Corpus.**

To the Honorable, the Southern Division of the United States District Court, for the Northern District of California, First Division.

The petition of Jew Shep respectfully shows:

I.

That your petitioner is a Chinese person and a citizen of the United States, and a resident of the City and County of San Francisco and Northern District of California.

II.

That Chan Wy Sheung, the detained person, on whose behalf this petition is made, is the natural son of Chan Young (Ngeung), a native-born citizen of the United States, and as such is entitled to enter the United States.

That the said Shan Wy Sheung, hereinafter in this petition referred to as the "detained," is unlawfully imprisoned, detained, confined and restrained of his liberty by Edward White, Commissioner of Immigration for the Port of San Francisco at the Immigration Station at Angel Island, County of Marin, State and Northern District of California; that said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit: That it is claimed by the [2] said Commissioner that the said detained is a Chinese person and an alien not subject or entitled to admission into the United States under the terms and provisions of the Acts of Congress of May 6, 1882, July 4, 1884, November 3, 1893, and the Act of Congress

of April 29, 1902, as amended and re-enacted by Section 5 of the Deficiency Act of April 7, 1904, which said acts are commonly known and referred to as the Chinese Exclusion or Restriction Acts; and that he, the said Commissioner, intends to deport the said detained Chan Wy Sheung away from and out of the United States to the Republic of China.

That the said Commissioner claims that the said detained arrived at the port of San Francisco on or about the 23d day of July, 1918, on the steamship "Tenyo Maru," and thereupon made application to enter into the United States as a citizen of the United States by virtue of being the foreign-born son of Chan Young (Ngeung), now deceased, who was a native-born citizen of the United States, and that the application of the said detained to enter the United States as a citizen thereof by virtue of being the foreign-born son of a native-born citizen of the United States was denied by the said Commissioner of Immigration, and that appeal was thereupon taken from the excluding decision of the said Commissioner of Immigration to the Secretary of the Department of Labor and that the said Secretary thereafter dismissed the said appeal. That it is claimed by the said Commissioner that in all of the proceedings had herein the said detained was accorded a full and fair hearing; that the action of the said Commissioner and said Secretary was taken and made by them in the proper exercise of the discretion committed to them by the statutes in such cases made and provided and in accordance with the regulations promulgated under the authority contained in said statutes. [3]

But, on the contrary, your petitioner, on his information and belief alleges that the hearing and proceedings had herein and the action of the said Commissioner and the action of the said Secretary and officials acting thereunder, was and is in excess of the authority committed to them by law and in this behalf your petitioner alleges:

That the detained arrived at the port of San Francisco July 23, 1918, and made application to enter the United States as a citizen thereof by reason of being the foreign-born son of Chan Young (Ngeung), a native-born citizen of the United States; that said application was denied by the immigration officials at the port of San Francisco; that thereafter an appeal was taken therefrom to the Secretary of Labor, and said Secretary of Labor sustained the decision of the port officials and dismissed said appeal; that thereafter a petition for a writ of habeas corpus was filed for and on behalf of the detained in the above-entitled court and said court ordered a writ of habeas corpus to issue; that in the return to said writ filed in said court the respondent prayed that the same be referred back to the Department of Labor for further and proper proceedings; that the petitioner for the detained in view of the detained's long confinement and the unavoidable delay in the decision of the Court consented and did make a motion that the matter be referred back to the Department of Labor, and that the writ be dismissed without prejudice to the detained; that thereafter and after further hearing had thereon before the Department of Labor the detained was again denied admission by the said im-

migration officials and said Secretary of Labor.

That your petitioner alleges upon information and belief that the relationship of father and son is fully established and is so conceded to be by the said immigration officials, and that the [4] adverse action of said officials and the said Secretary of Labor is based solely upon the alleged lack of proof of the father's nativity, notwithstanding the fact that proof was offered in 1899 of said nativity and the father was duly admitted as a native-born citizen of the United States; and that said proof fully satisfied the officials then in control; that since said year of 1899 the father has brought to and was permitted to land, two sons who were admitted as citizens of the United States and who are now residents thereof; that the said Chan Young (Ngeung), father of said detained, died in the year 1912 or six years before the hearing had thereon; that to deny the said detained admission after the repeated findings of prior officials of said Department of Labor that the said Chan Young (Ngeung) was in truth and fact a native-born citizen of the United States, especially when the said Chan Young (Ngeung) is now dead and unable to defend the said right, is an abuse of the discretion committed to them by law, and their finding is without the letter and the spirit of the law.

That your petitioner further alleges that the evidence submitted upon the application of the said detained to enter the United States was of such a conclusive kind and character and was of such legal weight and sufficiency that it was an abuse of discretion not to be guided thereby; and that no evidence was intro-

duced that would warrant the said Department of Labor officials in denying the nativity of the father and the right of the said detained to enter the United States.

That your petitioner was informed that said decision to deport the detained was reached September 18, 1919, and the same would take place at 1 o'clock September 19, 1919, unless stayed by an order of this Honorable Court. [5]

That your petitioner has not in his possession any part of the record or testimony submitted upon the examination of the case of the said detained under the direction of the said Commissioner of Immigration, or any copy of the reports rendered thereon, nor copies of the proceedings had before the Secretary of Labor at Washington, and the surrender of the said detained having been requested for the purpose of his deportation by virtue of the action of the Secretary of Labor as aforesaid, and a copy of the said proceedings being in the possession of the said Commissioner, your petitioner does therefore stipulate that when a copy of the said immigration record is brought before this Court and produced by the immigration authorities, in accordance with their custom and practice in cases of this character, that your petitioner will then and there agree, and asks that the said immigration record so presented, be deemed and considered part and parcel of this petition, with the same force and effect as if filed herewith.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed

to the Commissioner, and directing him to hold the body of the said detained within the jurisdiction of this Court, and to present the body of the said detained before this Court, at a time and place to be specified in said order, together with the time and cause of his detention so that the same may be inquired into, all to the end that the said detained may be permitted to enter the United States and take up his residence therein as a citizen of the United States, having a lawful right to said privilege, and that he may thereafter go hence without day.

Dated San Francisco, Cal., September 18, 1919.

JOSEPH P. FALLON,

Attorney for Petitioner. [6]

State of California,

City and County of San Francisco,—ss.

Jew Shep, being first duly sworn, deposes and says:

That he is the petitioner named in the foregoing petition; that he had heard read the same and knows the contents thereof; that the same is true of his own knowledge, except as to those matters therein stated on his information and belief, and as to matters he believes it to be true.

JEW SHEP.

Subscribed and sworn to before me this 18th day of September, 1919.

[Seal of the Notary] WM. E. CHARD,

Notary Public, in and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Sep. 17, 1919. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [7]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG, on Habeas Corpus.

**Order to Show Cause.**

Upon reading and filing the verified petition of Jew Shep praying for the issuance of the writ of habeas corpus,—

IT IS HEREBY ORDERED that Edward White, as Commissioner of Immigration at the port of San Francisco, at Angel Island, be and appear before the above-entitled court, Department Number One thereof, on Saturday, the 27th day of September, 1919, to show cause, if any he has, why a writ of habeas corpus should not issue in this matter and the petition granted as prayed, and this at the hour of 10 o'clock of said day; and

IT IS FURTHER ORDERED, that said Chan Wy Sheung be not removed from the jurisdiction of this Court until further order of this Court; and

IT IS FURTHER ORDERED, that a copy of this order be served upon said Edward White or such other person having the said Chan Wy Sheung in custody as an officer of said Edward White.

Dated September 18, 1919.

M. T. DOOLING,  
United States District Judge.

[Endorsed]: Filed Sep. 18, 1919. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [8]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 11,672.

In the Matter of CHAN WY SHEUNG, on Habeas Corpus.

**Demurrer to Petition for Writ of Habeas Corpus.**

Now comes the respondent, Edward White, Commissioner of Immigration at the port of San Francisco, in the State and Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

I.

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus, or for any relief thereon.

II.

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the trial of the said applicant are conclusions of law, and not statements of the ultimate facts.



WHEREFORE, respondent prays that the writ of habeas corpus be denied.

ANNETTE ABBOTT ADAMS,  
United States Attorney,  
BEN F. GEIS,  
Asst. United States Attorney,  
Attorneys for Respondent.

[Endorsed]: Filed Nov. 15, 1919. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [9]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG, on Habeas Corpus.

**(Opinion and Order Overruling Demurrer and for Writ to Issue.)**

JOSEPH P. FALLON, Esq., Attorney for Petitioner.

ANNETTE ABBOTT ADAMS, United States Attorney, and BEN. F. GEIS, Esq., Assistant United States Attorney, Attorneys for Respondent.

RUDKIN, District Judge.

The facts in this case are substantially as follows:  
Chan Young, the father of the present applicant, was admitted to the United States in December, 1899, as a native-born citizen, after a full hearing before

the proper department. The testimony introduced on that hearing, consisting of the testimony of the then applicant, his father and at least one other witness familiar with the time and place of the applicant's birth, showed without contradiction that the applicant was born at 751 Sacramento Street, San Francisco, State of California, in the year 1875. In the year 1909 or 1910 Chan Way Bon, a son of Chan Young, was admitted as the son of a native-born citizen and in 1917 Chan Way Ging, another son was likewise admitted as the son of a native-born citizen. It is conceded by the Government that the present applicant is a brother of the two last-named [10] Chinese and a son of Chan Young who, as already stated, was formally admitted to the United States as a native-born citizen twenty years ago. Chan Young died in San Francisco in 1912, having resided continuously in the United States from the time of his admission up to the time of his death. The grandfather is likewise dead. The denial of the admission in this case was based upon the fact that the father of the applicant under the name of Chun Wan Mong on the 2d of June, 1899, filed a statement and declaration for registration at Victoria, British Columbia, stating that he was born at Ding Boy, Sun Woy District, China, and that he was then of the age of twenty-five years. There was likewise offered in evidence at the present hearing a certified copy of an application for a certificate of residence made by Chin Wong the grandfather of the applicant on the 10th day of April, 1894, stating, among other things, that the applicant arrived in the United States in

May, 1876. Based upon these two certificates or statements it is argued by the Government that the father of the applicant was not a citizen of the United States and that the statement of the grandfather that he arrived in the United States in 1876 precludes the idea that his son was born here in 1875. There was grave doubts in my mind whether either of these statements or certificates are competent or admissible as against the applicant. There is also a grave doubt in my mind as to whether the declaration made at Victoria was actually made by the father of the applicant. There is no testimony in the record tending to identify him as the person who made the declaration, and while the declaration shows that the applicant arrived at Victoria by the steamship "Umatilla," [11] there is other testimony tending to show that he *is* fact arrived by the steamer "Walla Walla." But, in any event, it occurs to me that the department should be bound in this matter by its own prior adjudications made at a time when the witnesses who had knowledge of the facts were living and able and competent to testify, and that it would be gross injustice to exclude the applicant now after the death of his father and his grandfather when it is utterly impossible to explain or contradict the *ex parte* statements offered in evidence against him. As to the declaration of the grandfather, it was not in evidence before the department and perhaps should not be considered but in any event, it seems to me, entirely too much importance is attached to the matter of dates. As showing the *case* with which dates may be confused or misstated I need

only refer to the record in this case to show that it is stated in the brief of counsel for the Government and the memorandum prepared for the Secretary that the application of the grandfather was dated April 13th, 1894, whereas the certified copy shows that it was dated April 10th. Furthermore, the testimony given by the grandfather in 1899 showed that he had been a resident of the United States for thirty years, which would carry him back to the sixties and away beyond the birth of the applicant. I am fully aware of the limited power of the courts in matters of this kind and of the force and effect that must be given to the findings of the department, but I am of the opinion that the question here presented is one of law rather than of fact, and I cannot sanction the injustice that would result from excluding the applicant from the country at this late day under the circumstances [12] disclosed by this record. The decisions of the department after a full hearing should be given some effect and should not be overturned or set aside in subsequent cases upon any such pretext or for any such reasons as are here assigned.

The demurrer is, therefore, overruled and the writ of habeas corpus will issue as prayed, returnable November 22d, 1919, at 10 o'clock A. M.

November 20th, 1919.

[Endorsed]: Filed Nov. 20, 1919. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [13]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG, on Habeas Corpus.

**Writ of Habeas Corpus.**

The President of the United States of America, to the Commissioner of Immigration, Port of San Francisco, California, Angel Island, Calif.,  
GREETING:

YOU ARE HEREBY COMMANDED that you have the body of the said person by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said person shall be called or charged, before the Honorable FRANK H. RUDKIN, Judge of the United States District Court for the Northern District of California, at the courtroom of said court, in the city and county of San Francisco, California, on the 22d day of November, A. D. 1919, at 10 o'clock A. M., to do and receive what shall then and there be considered in the premises.

AND HAVE YOU THEN AND THERE THIS WRIT.

WITNESS, the Honorable FRANK H. RUDKIN, Judge of the said District Court, and the seal thereof

at San Francisco, in said District, on the 20th day of November, A. D. 1919.

[Seal]

WALTER B. MALING,  
Clerk.

By C. W. Calbreath,  
Deputy Clerk.

JOSEPH P. FALLON,  
Attorney for Petitioner. [14]

**Return on Service of Writ.**

United States of America,  
Nor. District of Cal.,—ss.

I hereby certify and return that I served the annexed writ of habeas corpus on the therein named Commissioner of Immigration by mailing a true and correct copy thereof to Edward White, Comr. of Immigration, personally, at Angel Island, in said District, on the 20th day of November, A. D. 1919.

J. B. HOLOHAN,  
U. S. Marshal.

By G. A. White,  
Deputy.

[Endorsed]: Filed Nov. 21, 1919. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [15]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG, on Habeas Corpus.

**Return to Writ of Habeas Corpus.**

Comes now Edward White, Commissioner of Immigration at the port of San Francisco, by P. A. Robbins, Immigrant Inspector, and in return to said petition for a writ of habeas corpus, admits, denies and alleges as follows:

I.

Admits that Chan Wy Sheung the detained, is the natural born son of Chan Young (Ngeung).

II.

Denies that Chan Young (Ngeung) is or ever was a native-born citizen of the United States, but in this connection alleges the fact to be that the said Chan Young (Ngeung) was born in King Boy village, Sun Woy District, China.

III.

Denies that Chan Wy Sheung is entitled to enter the United States as the natural-born son of said Chan Young (Ngeung) or for any other reason or at all entitled to enter the United States.

IV.

Denies that Chan Wy Sheung referred to as the detained is unlawfully imprisoned, detained, confined and restrained or is unlawfully imprisoned, or detained, or confined or restrained of his liberty by Edward White, [16] Commissioner of Immigration for the port of San Francisco or by any other person or persons whatever at the Immigration station at Angel Island, County of Marin, State and Northern District of California or elsewhere or at all so imprisoned or detained or confined or re-

strained, but in this connection alleges the facts respecting the imprisonment, detention, confinement and restraint of the said Chan Wy Sheung to be that the said Chan Wy Sheung is detained by the said Commissioner of Immigration at the Immigration station at Angel Island, County of Marin, State and Northern District of California for deportation to China pursuant to and under the authority of an order of deportation regularly and lawfully made by John W. Abercrombie, Acting Secretary of Labor, after a careful consideration of all the facts and evidence in the case presented to him upon appeal from the decision of the Board of Special Inquiry denying the application of the said Chan Wy Sheung to enter the United States after a full, fair and complete hearing of all the evidence submitted on behalf of the said Chan Wy Sheung.

## V.

Denies that the hearing and proceedings or the hearing or proceedings had herein and the action of the said Commissioner and the action of the said Secretary and officials acting thereunder or the action of the said Commissioner or the action of the said Secretary or the officials acting thereunder was and is or was or is, in excess of the authority committed to them by law, but in this connection alleges the fact to be that the hearing and proceedings had and the action of the said Commissioner and the said Secretary and the said officials, was and is under and pursuant to the authority committed to them by law. [17]



## VI.

Denies that the action of the said Commissioner or the action of the said Secretary or the officials acting thereunder in denying the said detained admission into the United States was or is an abuse of the discretion committed to them by law but in this connection alleges the fact to be, that decisions of the said Commissioner, the said Secretary and the officials acting thereunder are not *res judicata*, and that the evidence on which the said Commissioner, Secretary and officials acting thereunder acted in denying said detained admission into the United States was and is competent, proper and sufficient evidence showing that Chan Young (Ngeung) was not born in the United States and in so deciding said Immigration officials did not abuse the discretion committed to them by law.

## VII.

Denies that the finding of the said Commissioner or the said Secretary of Labor or the officials acting thereunder was or is without the letter or spirit of the law.

## VIII.

Denies that the evidence submitted upon the application of said detained to enter the United States was or is of such a conclusive kind or character or was of such legal weight or sufficiency that it was an abuse of discretion to deny the application of said detained to enter the United States.

## IX.

Denies that the said Commissioner, or said Secretary or the officials acting thereunder or either or

any of them were not guided by the evidence submitted and before said officials upon the application of the said [18] detained to enter the United States.

X.

Denies that no evidence was introduced that would warrant the said Department of Labor officials in denying the nativity of the father (Chang Young (Ngeung) or the right of the said detained to enter the United States, but in this connection alleges the fact to be that there was evidence introduced that would and did warrant the said Department of Labor officials in denying the nativity of the father and the right of the said detained to enter the United States.

WHEREFORE, respondent prays that the said petition be denied and said Chan Wy Sheung be remanded to the custody of respondent for deportation and for such other and further relief as to this Court seems equitable and just.

ANNETTE ABBOTT ADAMS,

United States Attorney.

BEN F. GEIS,

Asst. United States Attorney. [19]

United States of America,  
Northern District of California,  
City and County of San Francisco,—ss.

P. A. Robbins, being first duly sworn, deposes and says: That he is a Chinese and Immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for and represent the respondent, Edward White, Commissioner of Immigration, in the within

entitled matter; that he is familiar with all the facts set forth in the within return to the writ of habeas corpus and knows the contents thereof; that of affiant's knowledge the matters set forth in the return to the writ of habeas corpus are true, excepting those matters which are stated on information and belief, and that as to those matters he believes it to be true.

P. A. ROBBINS.

Subscribed and sworn to before me this 22d day of November, 1919.

[Seal] C. W. CALBREATH,  
Deputy Clerk of the United States District Court,  
Northern District of California.

[Endorsed]: Filed Nov. 22, 1919. W. B. Maling,  
Clerk. By C. M. Taylor, Deputy Clerk. [20]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG on Habeas Corpus.

**Order Discharging Detained.**

This matter having been regularly brought on for hearing upon the issues joined herein, and the same having been duly heard and submitted, and due consideration having been thereon had, it is by the Court now here ordered, that the said named person in whose behalf the writ of habeas corpus was sued

out is illegally restrained of his liberty, as alleged in the petition herein, and that he be, and he is hereby discharged from the custody from which he has been produced, and that he go hence without day.

Entered this 22d day of November, A. D. 1919.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

[Endorsed]: Filed Nov. 22, 1919. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [21]



In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,

Appellant,

vs.

CHAN WY SHEUNG,

Appellee.

### **Notice of Appeal.**

To the Clerk of the Above-entitled Court, to Chan Wy Sheung and to Joseph P. Fallon, Esq., His Attorney.

You and each of you will please take notice that Edward White, Commissioner of Immigration at the port of San Francisco, appellant herein, hereby ap-

peals to the United States Circuit Court of Appeals for the Ninth Circuit, from an order and judgment made and entered herein on the 22d day of November, 1919, setting aside the return to the petition for a writ of habeas corpus, and discharging the said Chan Wy Sheung from the custody of the said Edward White, Commissioner of Immigration at the port of San Francisco, and appellant herein.

Dated this 18th day of May, 1920.

ANNETTE ABBOTT ADAMS,  
United States Attorney,  
BEN F. GEIS,  
Asst. United States Attorney,  
Attorneys for Appellant.

Due service and receipt of a copy of the within admitted this 18th day of May, 1920.

JOSEPH P. FALLON,  
Atty. for Appellee.

[Endorsed]: Filed May 18, 1920. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [22]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,  
Appellant,

vs.

CHAN WY SHEUNG,

Appellee.

**Petition for Appeal.**

To the Honorable M. T. DOOLING, Judge of the District Court of the United States for the Northern District of California.

Edward White, as Commissioner of Immigration at the port of San Francisco, appellant herein, feeling aggrieved by the order and judgment made and entered in the above-entitled cause on the 22d day of November, 1919, discharging Chan Wy Sheung from the custody of said appellant, does hereby appeal from said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith.

WHEREFORE, petitioner prays that his appeal be allowed and that citation be issued, as provided by law, and that a transcript of the record, proceedings and documents, and all of the papers upon which said order and judgment were based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, under the rules of such Court and in accordance with the law in such case made and provided.

Dated this 18th day of May, 1920.

ANNETTE ABBOTT ADAMS,  
United States Attorney.

BEN F. GEIS,  
Asst. United States Attorney.

Due service and receipt of a copy of the within admitted this 18th day of May, 1920.

JOSEPH P. FALLON,  
Atty. for Appellee.

[Endorsed]: Filed May 18, 1920. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk, [23]

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In the Southern Division of the United States Dis-  
trict Court for the Northern District of Cali-  
fornia, First Division.

No. 16,672.

EDWARD WHITE, as Commissioner of Immigra-  
tion at the Port of San Francisco,  
Appellant,

vs.

CHAN WY SHEUNG,  
Appellee.

**Assignment of Errors.**

Comes now Edward White, Commissioner of Im-  
migration at the port of San Francisco, respondent  
in the above-entitled cause, and appellant in the ap-  
peal to the United States Circuit Court of Appeals  
for the Ninth Circuit, taken herein by his attorneys,  
Annette A. Adams, United States Attorney, and Ben  
F. Geis, Assistant United States Attorney, and files  
the following assignment of errors upon which he  
will rely in the prosecution of his appeal in the above-  
entitled cause to the United States Circuit Court of  
Appeals for the Ninth Circuit, from the order and  
judgment made by this Honorable Court on the 22d  
day of November, 1919.

I.

That the Court erred in granting the writ of habeas

corpus and discharging the alien Chan Wy Sheung from the custody of Edward White, Commissioner of Immigration at the port of San Francisco.

## II.

That the Court erred in holding that it had jurisdiction to issue the writ of habeas corpus in the above-entitled cause as prayed for in the petition of said Chan Wy Sheung for a writ of habeas corpus.  
[24]

## III.

That the Court erred in holding that the allegations set forth in the petition for writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus.

## IV.

That the Court erred in finding that the evidence upon which the Secretary of Labor issued the order of deportation for the said Chan Wy Sheung was insufficient in character.

## V.

That the Court erred in holding that Chan Wy Sheung was unlawfully imprisoned, detained, confined and restrained of his liberty by Edward White, Commissioner of Immigration at the port of San Francisco.

## VI.

That the Court erred in holding that the evidence taken at the hearings accorded that said Chan Wy Sheung before the immigration officials was insufficient to justify the said respondent Edward White to hold, detain or deport the said Chan Wy Sheung.

## VII.

That the Court erred in holding that Chan Young,



the alleged father of the said Chan Wy Sheung, was a citizen of the United States.

### VIII.

That the Court erred in holding that Chan Wy Sheung was a citizen of the United States and as such citizen entitled to enter the United States.

### IX.

That the Court erred in determining as a question of fact that Chan Wy Sheung was a citizen of the United States as against the decision of the Board of Special Inquiry and the Secretary of Labor that the said Chan Wy Sheung was not a [25] citizen of the United States.

### X.

That the Court erred in holding there was not sufficient evidence that Chan Wy Sheung was not a citizen of the United States.

### XI.

That the Court erred in holding that there was an abuse of discretion on the part of the Board of Special Inquiry and the Secretary of Labor in denying the said Chan Wy Sheung the right to enter the United States.

### XII.

That the Court erred in holding that the hearing or hearings accorded the said Chan Wy Sheung by the immigration officials was or were unfair.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court, for the Northern District of California, made and entered herein, in the office of the clerk of said court, on the said 22d day of November, 1919, set-

ting aside the return to the petition for a writ of habeas corpus, and discharging the said Chan Wy Sheung from the custody of Edward White, Commissioner of Immigration, be reversed, and that the said Chan Wy Sheung be remanded to the custody of said Commissioner of Immigration.

Dated this 18th day of May, 1920.

ANNETTE ABBOTT ADAMS,  
United States Attorney.  
BEN F. GEIS,  
Asst. United States Attorney,  
Attorneys for Appellant.

Due service and copy of the within admitted this 18th day of May, 1920.

JOSEPH P. FALLON,  
Atty. for Appellee.

[Endorsed]: Filed May 18, 1920. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [26]

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In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,672.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,  
Appellant,

vs.

CHAN WY SHEUNG,

Appellee.

**Order Allowing Appeal.**

On motion of Annette A. Adams, United States Attorney, and Ben F. Geis, Assistant United States Attorney, attorneys for appellant in the above-entitled cause,—

IT IS HEREBY ORDERED, that an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment of November 22, 1919, heretofore made and entered herein, be, and the same is hereby allowed, and that a certified transcript of the records, testimony, exhibits, stipulations and all proceedings be forthwith transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit, in the manner and time proscribed by law.

Dated, this 18th day of May, 1920.

M. T. DOOLING,

Judge of the District Court.

Due service and receipt of a copy of the within admitted this 18th day of May, 1920.

JOSEPH P. FALLON,

Atty. for Appellee.

[Endorsed]: Filed May 18, 1920. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [27]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG on Habeas Corpus.

**Stipulation (for Transmitting Original Exhibits to Appellate Court).**

It is hereby stipulated and agreed by and between the respective parties in the above-entitled cause that the records of the Immigration Service, which were filed in the above-entitled court as Respondent's Exhibits "A" "B," and "C" and which were made a part of respondent's return to the petition for a writ of habeas corpus in said cause, may be transferred, their original form and without being transcribed or copied, to the United States Circuit Court of Appeals for the Ninth Circuit, and the said records of the immigration service are and may there be considered as a part of respondent's return to the said petition for a writ of habeas corpus, and the record in determining this cause on appeal to the said United States Circuit Court of Appeals for the Ninth Circuit, without objection on the part of either of the said respective parties.

Dated this 18th day of May, 1920.

ANNETTE ABBOTT ADAMS,  
United States Attorney,  
BEN F. GEIS,  
Asst. United States Attorney,  
Attorneys for Appellee.  
JOSEPH P. FALLON,  
Attorney for Petitioner.

Due service and receipt of a copy of the within acknowledged this 18th day of May, 1920.

JOSEPH P. FALLON,  
Atty. for Appellee.

[Endorsed]: Filed May 18, 1920. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [28]

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In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,672.

In the Matter of CHAN WY SHEUNG on Habeas Corpus.

**Order Transmitting Original Exhibits to Appellate Court.**

It appearing to the Court that it is both necessary and proper that the records of the Immigration Service referred to in the above stipulation should be inspected in the United States Circuit Court of Appeals for the Ninth Circuit, in determining the ap-

peal of the said cause, the same having been filed and considered as stated in this court:

IT IS THEREFORE ORDERED that the said records be transferred in their original form by the clerk of this *court* the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, to be retained by said clerk until the appeal in the above-entitled cause is properly disposed of, at which time the same are to be returned to the clerk of the above-entitled court.

Dated this 18 day of May, 1920.

M. T. DOOLING,  
United States District Judge.

Due service and receipt of a copy of the within admitted this 18th day of May, 1920.

JOSEPH P. FALLON,  
Atty. for Appellee.

[Endorsed]: Filed May 18, 1920. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [29]

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**Certificate of Clerk U. S. District Court to Transcript on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 29 pages, numbered from 1 to 29, inclusive, contain a full, true, and correct transcript of certain records and proceedings, in the Matter of Chan Wy Sheung, on Habeas Corpus, No. 16,672, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance

with the Praeceptum for Transcript of Record (copy of which is embodied herein), and the instructions of the attorney for appellant herein.

I further certify that the cost for preparing and certifying to the foregoing transcript on appeal is the sum of Eleven Dollars and Thirty-five Cents (\$11.35).

Attached hereto is the original Citation on Appeal, issued herein (page 31).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 25th day of June, A. D. 1920.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,  
Deputy Clerk. [30]

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**(Citation on Appeal.)**

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Chan Wy Sheung and to His Attorney, Joseph P. Fallon, Esq., GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division, First Division, wherein Edward White, as Commissioner of

Immigration for the port of San Francisco is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, this 18th day of May, A. D. 1920.

M. T. DOOLING,  
United States District Judge. [31]

[Endorsed]: No. 16,672. United States District Court for the Northern District of California, Southern Div., First Div. Edward White, Commissioner of Immigration, Appellant, vs. Chan Wy Sheung. Citation on Appeal. Filed May 19, 1920. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk.

Due service and receipt of a copy of the within admitted this 19th day of May, 1920.

JOSEPH P. FALLON,  
Atty. for Appellee.

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[Endorsed]: No. 3516. United States Circuit Court of Appeals for the Ninth Circuit. Edward White, as Commissioner of Immigration for the Port of San Francisco, Appellant, vs. Chan Wy Sheung, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States Dis-



trict Court for the Northern District of California,  
First Division.

Filed June 25, 1920.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,

Deputy Clerk.

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In the Southern Division of the United States Dis-  
trict Court, for the Northern District of Cali-  
fornia, First Division.

No. 16,672.

EDWARD WHITE, as Commissioner of Immigra-  
tion at the Port of San Francisco,

Appellant,

vs.

CHAN WY SHEUNG,

Appellee.

**Order Extending Time to Docket Case.**

Good cause appearing therefor and upon motion  
of Ben F. Geis, Assistant United States Attorney,  
attorney for respondent and appellant herein:

IT IS HEREBY ORDERED that the time *within*  
to docket the appeal taken herein in the office of the  
Clerk of the U. S. Circuit Court of Appeals for the  
Ninth Circuit may be and the same is hereby ex-  
tended for the period of thirty days from and after  
the 17th day of June, 1920.

Dated San Francisco, Calif., June 12, 1920.

M. T. DOOLING,  
United States Dist. Judge.

Service of the foregoing order and receipt of a copy thereof is hereby admitted this 14th day of June, 1920.

JOSEPH P. FALLON,  
Attorney for Appellee.

[Endorsed]: No. 3516. United States Circuit Court of Appeals for the Ninth Circuit. No. 16,672. In the Southern Division of the District Court of the United States for the Northern District of California, First Division. Edward White, as Commissioner of Immigration at the Port of San Francisco vs. Chan Wy Sheung, on Habeas Corpus. Order Extending Time to Docket Case. Filed June 14, 1920. F. D. Monckton, Clerk. Re-filed June 25, 1920. By F. D. Monckton, Clerk.